

#56  
06/28/2022

(O-2022-120)

ORDINANCE NUMBER O- 21474 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 01 2022

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0103 AND 24.0104; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 2 BY AMENDING SECTION 24.0201; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 3 BY AMENDING SECTION 24.0301; BY AMENDING CHAPTER 2, ARTICLE 4, DIVISION 13 BY ADDING SECTIONS 24.1313 AND 24.1314; AND BY AMENDING SECTION 24.1702, ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, on June 5, 2012, City of San Diego (City) voters approved Proposition B, a citizens' initiative to amend the San Diego Charter (Charter) known as "Comprehensive Pension Reform for San Diego" (Proposition B); and

WHEREAS, Proposition B amended Articles VII (titled "Finance") and IX (titled "The Retirement of Employees") of the Charter related to retirement benefits of City employees; and

WHEREAS, among other things, Proposition B added section 140 to Article IX of the Charter; and

WHEREAS, the Charter amendments set forth in Proposition B became effective on July 20, 2012; and

WHEREAS, Charter section 140 provided that, except for sworn police officers, all Officers and employees who were initially hired or assumed office on or after the date the Charter amendment went into effect, July 20, 2012, were ineligible to participate in the City's defined benefit plan, the San Diego City Employees' Retirement System (SDCERS), and would participate only in a defined contribution plan; and

WHEREAS, by San Diego Ordinance O-20376 (June 10, 2014), Council amended various sections of the San Diego Municipal Code (Municipal Code) to close participation in the

SDCERS for all Officers and employees initially hired or assuming office on or after July 20, 2012, as mandated by Charter section 140; and

WHEREAS, on February 5, 2021, judgment was entered in the *Quo Warranto* action, San Diego County Superior Court Case No. 37-2019-00051308-CU-MC-CTL, *The People of the State of California ex rel. San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. City of San Diego and its City Council (Quo Warranto action)*, finding the provisions of the Charter added by Proposition B invalid; and

WHEREAS, on April 9, 2021, the judgment in the *Quo Warranto* action became final when the time for filing an appeal expired; and

WHEREAS, the court in the *Quo Warranto* action also issued a writ commanding the City and Council to comply with the judgment by striking the 2012 Proposition B provisions from the Charter and conforming the San Diego Municipal Code and any other related enactments or regulations accordingly; and

WHEREAS, to comply with the judgment, in part, among other actions, Council must amend the Municipal Code to remove the changes made related to the SDCERS to implement Proposition B and must direct the City Clerk to remove all Proposition B provisions from the Charter; and

WHEREAS, by San Diego Ordinance O-21333 (June 24, 2021); Council first amended Municipal Code sections 24.0103, 24.0104, and 24.1702, so that Officers and employees initially hired or assuming office on or after July 10, 2021, with the exception of police recruits in the City's Police Academy, could participate in the SDCERS, prospectively; and

WHEREAS, Council acknowledged a subsequent amendment to the Municipal Code would be necessary once the City and its recognized employee organizations reached agreement on the issues for represented employees to allow current Officers and employees initially hired or assuming office on or after July 20, 2012, but before July 10, 2021, to participate in the SDCERS, prospectively, and to address the purchase of SDCERS service credit for the period of time these individuals were City Officers or employees, but not eligible to participate in SDCERS due to Proposition B; and

WHEREAS, by San Diego Resolution R-313873 (February 2, 2022), Council approved an agreement with the San Diego Municipal Employees' Association (MEA) and the Local 127, American Federation of State, County and Municipal Employees, AFL-CIO (Local 127) regarding the unwinding of Proposition B for current MEA and Local 127-represented employees, and extended the terms of that agreement, with the exception of the provisions related to the seven percent interest penalty, to all unrepresented and unclassified employees in all Mayoral and non-Mayoral departments who were initially hired into an eligible standard hour position on or after July 20, 2012, but before July 10, 2021; and

WHEREAS, the City subsequently reached agreements with the Deputy City Attorneys Association (DCAA), California Teamsters Local 911 (Local 911), the San Diego City Firefighters, I.A.F.F. Local 145 (Local 145) regarding the unwinding of Proposition B for current DCAA, Local 911, and Local 145-represented employees; and

WHEREAS, it is now necessary to amend the Municipal Code to implement the terms of the agreements with MEA, Local 127, DCAA, Local 911, and Local 145 concerning the unwinding of Proposition B for current affected represented employees and unrepresented and unclassified employees; and

WHEREAS, the City's Management Team continues to meet and confer with MEA, Local 127, DCAA, Local 911, and Local 145 representatives regarding the unwinding of Proposition B for affected individuals who have separated from City employment; and

WHEREAS, the City has not yet reached agreement with the San Diego Police Officers Association (SDPOA) regarding the unwinding of Proposition B for current SDPOA-represented employees impacted by Proposition B, but the City's Management Team continues to meet and confer with SDPOA representatives; and

WHEREAS, SDPOA-represented employees initially hired on or after July 20, 2012, but before July 10, 2021, and police recruits in the City's Police Academy will continue to participate in their current City-sponsored retirement plans until the City and SDPOA reach agreement regarding participation in the SDCERS; and

WHEREAS, Charter section 143.1(a) does not require a vote of the SDCERS membership because none of the amendments contained in this ordinance will affect the benefits of any current employee under the SDCERS; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 4, Division 1 of the San Diego Municipal Code is amended by amending sections 24.0103 and 24.0104 to read as follows:

**Article 4: City Employees' Retirement System**

**Division 1: Creation of System and Definitions**

**§24.0103 Definitions**

Unless otherwise stated, for purposes of this Article:

*Accumulated Additional Contributions* through *DROP* [No change in text.]

*Elected Officer* means a person who is elected to serve as the City's Mayor, a member of the City Council, or the City Attorney.

*Final Compensation* [No change in text.]

*Final Compensation* means the average of the Member's three highest years of *Base Compensation* received on or after the date on which the Member first contributes to the System for General Members hired after June 30, 2009.

*Final Compensation* [No change in text.]

*Final Compensation for General Members* identified in section 24.0104(g), (h), (i), or (j) means the average of the Member's three highest years of *Base Compensation* received on or after the date on which the Member first contributes to the System.

*Final Compensation* means the average of a Member's three highest years of *Base Compensation* received on or after the date on which the Member first contributes to the System for: (1) *Safety Members* employed in the City Police Department who were hired by the City after December 31, 2011, but before July 1, 2013; (2) *Safety Members* employed in the City Lifeguard Services who were hired by the City after June 30, 2011; and (3) *Safety Members* employed in the City Fire Department who were hired by the City after December 31, 2011.

*Final Compensation* [No change in text.]

*Final Compensation for Safety Members* identified in section 24.0104(g), (h), (i), or (j) means the average of the Member's three highest years of *Base Compensation* received on or after the date on which the Member first contributes to the System.

*General Member* means a *Member* who is not a *Safety Member* or an *Elected Officer*.

*Health Eligible Retiree through Rules* [No change in text.]

*Safety Member* means a *Member* who is one of the following: (1) a sworn officer of the *City* Police Department; (2) a uniformed member of the *City* Fire Department; (3) a full-time *City* lifeguard; or (4) effective July 1, 2003, a Police Department recruit employed by the *City* and participating in the *City's* Police Academy, provided the recruit was initially hired by the *City* before July 1, 2013. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the *City's* Police Department, Fire Department, and lifeguard service are not *Safety Members*.

*Service Credit through "Unmodified Service Retirement Allowance"* [No change in text.]

**§24.0104 Membership**

- (a) Membership in the *System* is compulsory and a condition of employment for all: (1) general salaried, classified and unclassified employees who work in a standard hour position except as provided in subsections (g), (h), (i), (j), and (k); (2) general salaried, classified and unclassified employees who are rehired after July 8, 2022, and work in a standard hour position, unless the employee opted to not join the *System* under subsection (l); (3) general salaried, classified and unclassified employees who are initially hired on or after July 20, 2012, but before July 10, 2021, and whose first day working in a standard hour position is on or after July 8,

2022; (4) police recruits initially hired before July 1, 2013; (5) sworn officers in the *City's* Police Department regardless of hire date; (6) full-time *City* lifeguards; and (7) uniformed members of the *City's* Fire Department.

- (b) Classified employees paid on an hourly basis, who participate in the *City's* Supplemental Pension Savings Plan for Hourly Employees (SPSP-H) are not salaried employees and are not eligible to join or accrue benefits in the *System*, except as provided in section 24.1304.
- (c) Employees who, under subsection (l), elect to remain in the SPSP-H plan are not eligible to join or accrue benefits in the *System*.
- (d) *Members* who are salaried employees and regularly work at least half-time, but less than full-time, accrue *Service Credit* in the same proportion to full benefits as their service relates to the service of a full-time *Member*.
- (e) Except as provided in subsections (g), (h), (i), (j), and (k), effective August 11, 1993, an unclassified employee who works for the *City* in a standard hour position must join the *System* upon employment. Upon joining the *System*, the employee will receive all the privileges and benefits afforded other *Members* and will be bound by all regulations governing such membership.
- (f) Notwithstanding anything to the contrary in this section, the *Board* may, subject to rules it adopts under section 24.0901 and the requirements of this subsection, adjust a *Member's* first and last dates of membership to prevent a *Member* from earning *Service Credit* in the *System* for the same

time period for which the *Member* is earning or has earned *Service Credit* in a reciprocal retirement system.

(1) through (2) [No change in text]

(3) Notwithstanding paragraphs (1) and (2), the Board may not adjust a *Member's* first and last dates of membership under this section if the adjustment will result in a period of *City* employment during which the *Member* would be subject to mandatory Social Security coverage.

(4) In no event may the *Board* adjust membership dates under this subsection to include days during which a *Member* was not a *City* employee.

(g) Except as provided in subsection (k), or a police recruit, or a sworn officer in the *City's* Police Department, each salaried, classified and unclassified employee, initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who has been continuously employed by the *City* since they first worked in a standard hour position, and who is on the *City's* active payroll working continuously in a standard hour position from January 21, 2022, through July 8, 2022, must join the *System* on July 9, 2022. As provided in section 24.1313, upon joining the *System* the *Member* must purchase *Service Credit* by way of a trustee-to-trustee transfer for all of the *Member's* periods of service while working in a standard hour position prior to joining the *System*.

(h) Except as provided in subsection (g) and (k), or a police recruit, or a sworn officer in the *City's* Police Department, each salaried, classified and unclassified employee, initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who is on the *City's* active payroll working continuously in a standard hour position, from April 29, 2022, through September 16, 2022, must join the *System* on September 17, 2022. As provided in section 24.1313, upon joining the *System* the *Member* must purchase *Service Credit* by way of a trustee-to-trustee transfer. In addition, as provided in section 24.1314, the *Member* may purchase *Service Credit* for periods not purchased under section 24.1313.

(i) Except as provided in subsections (g), (h), and (k), or a police recruit, or a sworn officer in the *City's* Police Department, each salaried, classified and unclassified employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who works or has worked in a standard hour position, and who is employed by the *City* and working in a standard hour position on July 8, 2022, must join the *System* on July 9, 2022. As provided in section 24.1313, after joining the *System* the *Member* must purchase *Service Credit* by way of a trustee-to-trustee transfer for all of the *Member's* periods of service while working in a standard hour position prior to joining the *System*. In addition, as provided in Section 24.1314, the *Member* may purchase *Service Credit* for periods not purchased under section 24.1313.

- (j) Except as provided in subsection (k), or a police recruit, or a sworn officer in the *City's* Police Department, each salaried, classified and unclassified employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who is employed by the *City*, but is either not on the *City's* active payroll or is working in a non-standard hour position on July 8, 2022, must join the *System* when they return to the *City's* active payroll in a standard hour position. In addition, as provided in section 24.1314, after joining the *System* June 30, 2022, the *Member* may purchase *Service Credit* for periods not purchased under section 24.1313.
- (k) Each salaried, classified and unclassified employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who is employed by the *City* on July 8, 2022, and who is represented by the San Diego Municipal Employees' Association or the Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, or is a non-safety employee unrepresented by any of the *City's* recognized employee organizations, must be given the option to irrevocably elect to remain an active participant in the SPSP-H instead of joining the *System* and purchasing *Service Credit* as described in sections 24.1313 and 24.1314.
- (l) For each employee identified in subsection (k):
  - (1) The employee must irrevocably elect in writing on a form provided by the *City* to remain an active participant in the SPSP-H instead of joining the *System* and purchasing *Service Credit*, and file such election with the *City* during the 60-day election period.

- (A) For each employee identified in subsection (g), the 60-day election period begins on May 2, 2022, and ends on June 30, 2022.
  - (B) For each employee identified in subsection (h), the 60-day election period begins on July 9, 2022, and ends on September 6, 2022.
  - (C) For all other employees identified in subsections (k), the 60-day election period begins on the first date after July 8, 2022, the employee is on the *City's* active payroll in a standard hour position.
- (2) By electing to remain an active participant in the SPSP-H, the employee irrevocably waives the right to join the *System* and to purchase *Service Credit* under sections 24.1313 and 24.1314.
  - (3) By failing to make the election by the end of the election period, the employee forever waives the option to actively participate in the SPSP-H and must join the *System* and purchase *Service Credit* by way of a trustee-to-trustee transfer under section 24.1313.
- (A) Each employee identified in subsection (g), who works continuously in a standard hour position between January 21, 2022, and July 8, 2022, must join the *System* on July 9, 2022.
  - (B) Each employee identified in subsection (h), who works continuously in a standard hour position between April 29,

2022, and September 16, 2022, must join the *System* on September 17, 2022.

- (C) All other employees must join the *System* on the first day of the first pay period beginning after the end of the 60-day election period described in subsection (l)(1).
- (m) For each *Member* initially hired or elected on or after July 20, 2012, but before July 10, 2021, the membership date, establishing entry into employment under the *System*, shall be the first date the *Member* worked in a standard hour position provided that the *Member* has purchased that time under section 24.1313 or 24.1314. If the *Member* has not purchased that time, the membership date shall be the date the *Member* first contributed to the *System*.
- (n) This article, including this section 24.0104, is intended to comply with the pertinent provisions of the Internal Revenue Code and Treasury regulations and guidance, and shall be interpreted and administered accordingly. Notwithstanding anything to the contrary, if an employee irrevocably elects to remain an active participant in the SPSP-H in accordance with subsection (k), then the amount of such employee's mandatory pre-tax employee contributions to the SPSP-H shall at all times be identical to the amount of mandatory pre-tax employee contributions that such employee would have made to the *System* but for the election.

Section 2. That Chapter 2, Article 4, Division 2 of the San Diego Municipal Code is amended by amending section 24.0201 to read as follows:

**Article 4: City Employees' Retirement System**

**Division 2: General Member Contributions**

**§24.0201 Normal Rate of Contribution**

- (a) The *Board* determines the normal rate of contribution for a *General Member* based upon the *Member's* age at their birthday nearest to the date the *Member* joined the *System*, adjusted for periods of time the *Member* was regularly working less than half-time (i.e., inactive or withdrawn) and for purchases of *Service Credit* under section 24.1303. *General Members* identified in Section 24.0104(g), (h), (i), and (j) are considered to have joined the *System* on the membership date determined in section 24.0104(m).
- (b) [No change in text.]

Section 3. That Chapter 2, Article 4, Division 3 of the San Diego Municipal Code is amended by amending section 24.0301 to read as follows:

**Article 4: City Employees' Retirement System**

**Division 3: Safety Members Contributions**

**§24.0301 Normal Rate of Contributions**

- (a) The *Board* determines the normal rate of contribution for a *Safety Member* based upon the *Member's* age at their birthday nearest to the date the *Member* joined the *System*, adjusted for periods of time the *Member* was regularly working less than half-time (i.e., inactive or withdrawn) and for purchases of *Service Credit* under Section 24.1303. *Safety Members* identified in section 24.0104(g), (h), (i), and (j) are considered to have

joined the *System* on the membership date determined in section 24.0104(m).

(b) [No change in text.]

Section 4. That Chapter 2, Article 4, Division 13 of the San Diego Municipal Code is amended by adding new sections 24.1313 and 24.1314 to read as follows:

**Article 4: City Employees' Retirement System**

**Division 13: Purchase of Service Credit**

**§24.1313 Mandatory Purchase of Service Credit by way of Trustee-to-Trustee Transfer for Certain Employees not Previously Included within Field of Membership**

- (a) Each employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who joins the *System* under section 24.0104, who has been continuously employed by the *City* since July 8, 2022, and who has not taken a distribution of their SPSP-H funds, must, upon joining the *System*, purchase *Service Credit* by way of a trustee-to-trustee transfer for all of the *Member's* periods of *City* employment working in a standard hour position before they started making contribution to the *System*.
- (b) Each employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who joins the *System* under section 24.0104; who has been continuously employed by the *City* since July 8, 2022, and who has taken a refund of SPSP-H monies for a period of time when they were not in a standard hour position, must, upon joining the *System*, purchase *Service Credit* by way of a trustee-to-trustee transfer for all of the

*Member's* periods of *City* employment working in a standard hour position before they started making contributions to the *System*.

- (c) Each employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who joins the *System* under in section 24.0104, who has been continuously employed by the *City* since July 8, 2022, and who has taken a refund of SPSP-H monies for a period of time when they were in a standard hour position, must, upon joining the *System*, purchase *Service Credit* by way of a trustee-to-trustee transfer for all of the *Member's* periods of service working in a standard hour position during the employee's periods of continuous *City* employment immediately before they started making contributions to the *System*.
- (d) As a result of the *Service Credit* purchase by way of a trustee-to-trustee transfer, the *Member* is considered to have joined the *System* on the membership date determined in section 24.0104(m).
- (e) The *Actuary* will calculate the actuarial liability, or cost, to purchase the *Service Credit*. That cost will be projected through the last day prior to joining the *System*. The *Member's* share of the liability is the *Normal*, *Surviving Spouse*, and *Cost-of-Living Annuity Contributions* the *Member* would have made, plus annual interest at the *System's* assumed actuarial rate of return, for the periods the *Member* worked in a standard hour position described in subsections (a), (b), or (c). The remaining liability is the *City's* share of the liability.

- (f) The cost to purchase *Service Credit* by way of a trustee-to-trustee transfer will be allocated between the *Member* and the *City* as follows:
- (1) The *Member's* share of the liability as defined in subsection (e) will be transferred from the *Member's* SPSP-H employee contribution account by way of trustee-to-trustee transfer from the SPSP-H to the *System*. The *City* will contribute to the *System* the difference, if any, between that amount and the total amount of the *Member's* share of the liability as defined in subsection (e).
  - (2) The *City's* share of the liability as defined in subsection (e) will be transferred from the *Member's* SPSP-H employer contribution account by way of trustee-to-trustee transfer from the SPSP-H to the *System*. The remaining *City* responsibility, if any, will be funded as determined by the *Board*.
- (g) The amounts to be transferred will be transferred to the *System* by way of trustee-to-trustee transfer as soon as administratively feasible after the employee starts making contributions to the *System*. In each case, the *System* will accept the transfer.
- (h) All amounts transferred from the *Member's* SPSP-H account to the *System* to purchase *Service Credit* by way of a trustee-to-trustee transfer under this section will be treated as *Member* contributions and credited to the *Member's* contribution account, but will not be treated as contributions for purposes of Internal Revenue Code section 415(n)(1). The *System* will separately account for the portion of the transferred amounts attributable

to pre-tax contributions and the portion attributable to after-tax contributions and earnings on that portion based on information provided by the *City* of its designee in connection with the transfer.

**§24.1314 Voluntary Purchase of Service Credit for Certain Employees Not Previously Included Within the Field of Membership**

- (a) A *Member* who has been continuously employed since July 8, 2022, may, after joining the *System*, purchase *Service Credit* for periods of service working in a standard hour position on or after July 20, 2012, but before July 10, 2021, not credited under section 24.1313, as provided in this section.
- (b) The *Board* will determine the equivalent of the employee and employer cost of that service. The *Member* is responsible for the liability to purchase the *Service Credit*.
- (c) A member who opts to purchase *Service Credit* under this section within sixty days of joining the *System* shall be entitled to the provisions set forth under section 24.1313, with the exception that the *City's* share of the liability for the *Service Credit* will be determined based on the amount in the *Member's* SPSP-H employee and employer contribution account immediately before any distribution from the *Member's* SPSP-H account:

Section 5. That Chapter 2, Article 4, Division 17 of the San Diego Municipal Code is amended by amending section 24.1702 to read as follows:

**Article 4: City Employees' Retirement System**

**Division 17: Elected Officers' Retirement Plan**

**§24.1702 Membership by Elected Officers Permissive**

Every *Elected Officer* in office on July 1, 1971, or elected after that date, may become a *Member* of this *System*, provided they file with the *Board* a written election to become a *Member*. *Elected Officers* who initially assumed office or were initially hired on or after July 20, 2012, but before July 10, 2021, must file an election with the *Board* by June 30, 2022, to join the *System* effective July 9, 2022.

Section 6. That this ordinance applies retroactively to July 9, 2022, for purposes of all affected Officers' and employees' participation in the SDCERS.

Section 7. That the Council of the City of San Diego authorizes and directs the City Clerk to amend the Charter to remove the invalidated Proposition B provisions.

Section 8. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 9. That this ordinance will take effect and be in force on the 30th day after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By           /s/ Thomas J. Brady            
Thomas J. Brady  
Deputy City Attorney

TJB:jvg  
May 25, 2022  
Or.Dept: Human Resources  
Doc. No.: 3000930

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 28 2022

ELIZABETH S. MALAND  
City Clerk

By Connie Patterson  
Deputy City Clerk

Approved: 7/1/22  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0103 AND 24.0104; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 2 BY AMENDING SECTION 24.0201; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 3 BY AMENDING SECTION 24.0301; BY AMENDING CHAPTER 2, ARTICLE 4, DIVISION 13 BY ADDING SECTIONS 24.1313 AND 24.1314; AND BY AMENDING SECTION 24.1702, ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

**Article 4: City Employees' Retirement System**

**Division 1: Creation of System and Definitions**

**§24.0103 Definitions**

Unless otherwise stated, for purposes of this Article:

*Accumulated Additional Contributions* through *DROP* [No change in text.]

*Elected Officer* means a person who is elected to serve as the *City's* Mayor, a member of the City Council, or the City Attorney, ~~and who is initially hired or assumes office with the City before July 20, 2012, or on or after July 10, 2021.~~

*Final Compensation* [No change in text.]

*Final Compensation* means the average of the *Member's* three highest years of *Base Compensation* received on or after the date on which the *Member* first contributes to the *System* while a *Member*, for *General Members* hired after June 30, 2009, ~~but before July 20, 2012, or on or after July 10, 2021.~~

*Final Compensation* [No change in text.]

*Final Compensation for General Members identified in section 24.0104(g), (h), (i), or (j) means the average of the Member's three highest years of Base Compensation received on or after the date on which the Member first contributes to the System.*

*Final Compensation* means the average of a *Member's* three highest years of *Base Compensation* received on or after the date on which the *Member* first contributes to the *System* while a *Member*, for: (1) *Safety Members* employed in the *City* Police Department who were hired by the *City* after December 31, 2011, but before July 1, 2013; (2) *Safety Members* employed in the *City* Lifeguard Services who were hired by the *City* after June 30, 2011; and (3) *Safety Members* employed in the *City* Fire Department who were hired by the *City* after December 31, 2011.

*Final Compensation* [No change in text.]

*Final Compensation for Safety Members identified in Section 24.0104(g), (h), (i), or (j) means the average of the Member's three highest years of Base Compensation received on or after the date on which the Member first contributes to the System.*

*General Member* means a *Member* who was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, and who is not a *Safety Member* or an

*Elected Officer.*

*Health Eligible Retiree through Rules* [No change in text.]

*Safety Member* means a *Member* who is one of the following: (1) a sworn officer of the *City* Police Department; (2) a uniformed member of the *City* Fire

~~Department who was initially hired before July 20, 2012, or on or after July 10, 2021;~~ (3) a full-time *City* lifeguard ~~who was initially hired before July 20, 2012, or on or after July 10, 2021;~~ or (4) effective July 1, 2003, a Police Department recruit employed by the *City* and participating in the *City's* Police Academy, provided the recruit was initially hired by the *City* before July 1, 2013. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the *City's* Police Department, Fire Department, and lifeguard service are not *Safety Members*.

*Service Credit* through "*Unmodified Service Retirement Allowance*" [No change in text.]

**§24.0104 Membership**

- (a) ~~Except as provided in subsection (e), m~~Membership in the *System* is compulsory and a condition of employment for all: (1) general salaried, classified and unclassified employees who work in a standard hour position initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, who regularly work at least half time except as provided in subsections (g), (h), (i), (j), and (k); (2) general salaried, classified and unclassified employees who are rehired after July 8, 2022, and work in a standard hour position, unless the employee opted to not join the *System* under subsection (l); (3) general salaried, classified, and unclassified employees who are initially hired on or after July 20, 2012, but before July 10, 2021, and whose first day working in a standard hour position is on or after July 8, 2022; (24) police recruits initially hired before July 1,

2013, and; (35) sworn officers in the *City's* ~~P~~Police ~~d~~Department regardless of hire date; (6) full-time *City* lifeguards; and (7) uniformed members of the *City's* Fire Department.

(b) Classified employees paid on an hourly basis, who participate in the *City's* Supplemental Pension Savings Plan for Hourly Employees, (SPSP-H) are not salaried employees and are not eligible to join or accrue benefits in the *System*, except as provided in section 24.1304.

(c) Employees who, under subsection (l), elect to remain in the SPSP-H plan are not eligible to join or accrue benefits in the *System*.

(ed) *Members* who are salaried employees and regularly work at least half-time, but less than full-time, accrue *Service Credit* in the same proportion to full benefits as their service relates to the service of a full-time *Member*.

(de) Except as provided in subsections (g), (h), (i), (j), and (k), Effective August 11, 1993, an unclassified employee who regularly works for the *City* at least half-time in a standard hour position must join the *System* upon employment, if the employee: (1) was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, or (2) is a sworn police officer in the *City's* Police Department. Upon joining the *System*, the employee will receive all the privileges and benefits afforded other *Members* and will be bound by all regulations governing such membership.

(ef) Notwithstanding anything to the contrary in this section, the *Board* may, subject to rules it adopts under section 24.0901 and the requirements of

~~this subparagraph subsection~~, adjust a *Member's* first and last dates of membership to prevent a *Member* from earning *Service Credit* in the *System* for the same time period for which the *Member* is earning or has earned *Service Credit* in a reciprocal retirement system.

(1) through (2) [No change in text]

(3) Notwithstanding ~~subparagraphs paragraphs~~ (1) and (2), the Board may not adjust a *Member's* first and last dates of membership under this section if the adjustment will result in a period of *City* employment during which the *Member* would be subject to mandatory Social Security coverage.

(4) In no event may the *Board* adjust membership dates under this ~~section subsection~~ to include days during which a *Member* was not a *City* employee.

(g) Except as provided in subsection (k), or a police recruit, or a sworn officer in the City's Police Department, each salaried, classified and unclassified employee, initially hired by the City on or after July 20, 2012, but before July 10, 2021, who has been continuously employed by the City since they first worked in a standard hour position, and who is on the City's active payroll working continuously in a standard hour position from January 21, 2022, through July 8, 2022, must join the System on July 9, 2022. As provided in section 24.1313, upon joining the System the Member must purchase Service Credit by way of a trustee-to-trustee transfer for all of

the Member's periods of service while working in a standard hour position prior to joining the System.

- (h) Except as provided in subsection (g) and (k), or a police recruit, or a sworn officer in the City's Police Department, each salaried, classified and unclassified employee, initially hired by the City on or after July 20, 2012, but before July 10, 2021, who is on the City's active payroll working continuously in a standard hour position, from April 29, 2022 through September 16, 2022, must join the System on September 17, 2022. As provided in section 24.1313, upon joining the System the Member must purchase Service Credit by way of a trustee-to-trustee transfer. In addition, as provided in section 24.1314, the Member may purchase Service Credit for periods not purchased under section 24.1313.
- (i) Except as provided in subsections (g), (h), and (k), or a police recruit, or a sworn officer in the City's Police Department, each salaried, classified and unclassified employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who works or has worked in a standard hour position, and who is employed by the City and working in a standard hour position on July 8, 2022, must join the System on July 9, 2022. As provided in section 24.1313, after joining the System the Member must purchase Service Credit by way of a trustee-to-trustee transfer for all of the Member's periods of service while working in a standard hour position prior to joining the System. In addition, as provided in Section 24.1314,

the Member may purchase Service Credit for periods not purchased under section 24.1313.

(j) Except as provided in subsection (k), or a police recruit, or a sworn officer in the City's Police Department, each salaried, classified and unclassified employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who is employed by the City, but is either not on the City's active payroll or is working in a non-standard hour position on July 8, 2022, must join the System when they return to the City's active payroll in a standard hour position. In addition, as provided in section 24.1314, after joining the System June 30, 2022, the Member may purchase Service Credit for periods not purchased under Section 24.1313.

(k) Each salaried, classified and unclassified employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who is employed by the City on July 8, 2022, and who is represented by the San Diego Municipal Employees' Association or the Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, or is a non-safety employee unrepresented by any of the City's recognized employee organizations, must be given the option to irrevocably elect to remain an active participant in the SPSP-H instead of joining the System and purchasing Service Credit as described in sections 24.1313 and 24.1314.

(l) For each employee identified in subsection (k):

(1) The employee must irrevocably elect in writing on a form provided by the City to remain an active participant in the SPSP-H instead of

joining the *System* and purchasing *Service Credit*, and file such election with the *City* during the 60-day election period.

(A) For each employee identified in subsection (g), the 60-day election period begins on May 2, 2022, and ends on June 30, 2022.

(B) For each employee identified in subsection (h), the 60-day election period begins on July 9, 2022, and ends on September 6, 2022.

(C) For all other employees identified in subsections (k), the 60-day election period begins on the first date after July 8, 2022, the employee is on the *City's* active payroll in a standard hour position.

(2) By electing to remain an active participant in the SPSP-H, the employee irrevocably waives the right to join the *System* and to purchase *Service Credit* under sections 24.1313 and 24.1314.

(3) By failing to make the election by the end of the election period, the employee forever waives the option to actively participate in the SPSP-H and must join the *System* and purchase *Service Credit* by way of a trustee-to-trustee transfer under section 24.1313.

(A) Each employee identified in subsection (g), who works continuously in a standard hour position between January 21, 2022, and July 8, 2022, must join the *System* on July 9, 2022.

- (B) Each employee identified in subsection (h), who works continuously in a standard hour position between April 29, 2022, and September 16, 2022, must join the System on September 17, 2022.
- (C) All other employees must join the System on the first day of the first pay period beginning after the end of the 60-day election period described in subsection (l)(1).
- (m) For each Member initially hired or elected on or after July 20, 2012, but before July 10, 2021, the membership date, establishing entry into employment under the System, shall be the first date the Member worked in a standard hour position provided that the Member has purchased that time under section 24.1313 or 24.1314. If the Member has not purchased that time, the membership date shall be the date the Member first contributed to the System.
- (n) This article, including this section 24.0104, is intended to comply with the pertinent provisions of the Internal Revenue Code and Treasury regulations and guidance, and shall be interpreted and administered accordingly. Notwithstanding anything to the contrary, if an employee irrevocably elects to remain an active participant in the SPSP-H in accordance with subsection (k), then the amount of such employee's mandatory pre-tax employee contributions to the SPSP-H shall at all times be identical to the amount of mandatory pre-tax employee contributions that such employee would have made to the System but for the election.

**Article 4: City Employees' Retirement System**

**Division 2: General Member Contributions**

**§24.0201 Normal Rate of Contribution**

- (a) The *Board* determines the normal rate of contribution for a *General Member* based upon the *Member's* age at ~~his or her~~their birthday nearest to the date the *Member* joined the *System*, adjusted for periods of time the *Member* was regularly working less than half-time (i.e., inactive or withdrawn) and for purchases of *Service Credit* under section 24.1303. *General Members* identified in Section 24.0104(g), (h), (i), and (j) are considered to have joined the *System* on the membership date determined in section 24.0104(m).
- (b) [No change in text.]

**Article 4: City Employees' Retirement System**

**Division 3: Safety Members Contributions**

**§24.0301 Normal Rate of Contributions**

- (a) The *Board* determines the normal rate of contribution for a *Safety Member* based upon the *Member's* age at ~~his or her~~their birthday nearest to the date the *Member* joined the *System*, adjusted for periods of time the *Member* was regularly working less than half-time (i.e., inactive or withdrawn) and for purchases of *Service Credit* under Section 24.1303. *Safety Members* identified in Section 24.0104(g), (h), (i), and (j) are considered to have joined the *System* on the membership date determined in section 24.0104(m).
- (b) [No change in text.]

**Article 4: City Employees' Retirement System**

**Division 13: Purchase of Service Credit**

**§24.1313 Mandatory Purchase of Service Credit by way of Trustee-to-Trustee Transfer for Certain Employees not Previously Included within Field of Membership**

- (a) Each employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who joins the System under section 24.0104, who has been continuously employed by the City since July 8, 2022, and who has not taken a distribution of their SPSP-H funds, must, upon joining the System, purchase Service Credit by way of a trustee-to-trustee transfer for all of the Member's periods of City employment working in a standard hour position before they started making contribution to the System.
- (b) Each employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who joins the System under section 24.0104, who has been continuously employed by the City since July 8, 2022, and who has taken a refund of SPSP-H monies for a period of time when they were not in a standard hour position, must, upon joining the System, purchase Service Credit by way of a trustee-to-trustee transfer for all of the Member's periods of City employment working in a standard hour position before they started making contributions to the System.
- (c) Each employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who joins the System under in section 24.0104, who has been continuously employed by the City since July 8, 2022, and who has

taken a refund of SPSP-H monies for a period of time when they were in a standard hour position must, upon joining the System, purchase Service Credit by way of a trustee-to-trustee transfer for all of the Member's periods of service working in a standard hour position during the employee's periods of continuous City employment immediately before they started making contributions to the System.

- (d) As a result of the Service Credit purchase by way of a trustee-to-trustee transfer, the Member is considered to have joined the System on the membership date determined in section 24.0104(m).
- (e) The Actuary will calculate the actuarial liability, or cost, to purchase the Service Credit. That cost will be projected through the last day prior to joining the System. The Member's share of the liability is the Normal, Surviving Spouse, and Cost-of-Living Annuity Contributions the Member would have made, plus annual interest at the System's assumed actuarial rate of return, for the periods the Member worked in a standard hour position described in subsections (a), (b), or (c). The remaining liability is the City's share of the liability.
- (f) The cost to purchase Service Credit by way of a trustee-to-trustee transfer will be allocated between the Member and the City as follows:
  - (1) The Member's share of the liability as defined in subsection (e) will be transferred from the Member's SPSP-H employee contribution account by way of trustee-to-trustee transfer from the SPSP-H to the System. The City will contribute to the System the difference, if any,

between that amount and the total amount of the *Member's* share of the liability as defined in subsection (e).

(2) The *City's* share of the liability as defined in subsection (e) will be transferred from the *Member's* SPSP-H employer contribution account by way of trustee-to-trustee transfer from the SPSP-H to the *System*. The remaining *City* responsibility, if any, will be funded as determined by the *Board*.

(g) The amounts to be transferred will be transferred to the *System* by way of trustee-to-trustee transfer as soon as administratively feasible after the employee starts making contributions to the *System*. In each case, the *System* will accept the transfer.

(h) All amounts transferred from the *Member's* SPSP-H account to the *System* to purchase *Service Credit* by way of a trustee-to-trustee transfer under this section will be treated as *Member* contributions and credited to the *Member's* contribution account, but will not be treated as contributions for purposes of Internal Revenue Code section 415(n)(1). The *System* will separately account for the portion of the transferred amounts attributable to pre-tax contributions and the portion attributable to after-tax contributions and earnings on that portion based on information provided by the *City* of its designee in connection with the transfer.

**§24.1314**      **Voluntary Purchase of Service Credit for Certain Employees Not Previously Included Within the Field of Membership**

- (a)    A Member who has been continuously employed since July 8, 2022, may, after joining the System, purchase Service Credit for periods of service working in a standard hour position on or after July 20, 2012, but before July 10, 2021, not credited under section 24.1313, as provided in this section.
- (b)    The Board will determine the equivalent of the employee and employer cost of that service. The Member is responsible for the liability to purchase the Service Credit.
- (c)    A member who opts to purchase Service Credit under this section within sixty days of joining the System shall be entitled to the provisions set forth under section 24.1313, with the exception that the City's share of the liability for the Service Credit will be determined based on the amount in the Member's SPSP-H employee and employer contribution account immediately before any distribution from the Member's SPSP-H account.

**Article 4: City Employees' Retirement System**

**Division 17: Elected Officers' Retirement Plan**

**§24.1702**      **Membership by Elected Officers Permissive**

Every *Elected Officer* in office on July 1, 1971, or elected after that date, may become a *Member* of this *System*, provided ~~he or she initially assumes office or is initially hired by the City before July 20, 2012, or on or after July 10, 2021, and~~ they files with the Board a written election to become a Member. *Elected Officers*

who initially assumed office or were initially hired on or after July 20, 2012, but before July 10, 2021, must file an election with the Board by June 30, 2022, to join the System effective July 9, 2022.

TJB:jvg  
May 24, 2022  
Or.Dept: Human Resources  
Doc. No.: 3001161

Passed by the Council of The City of San Diego on JUN 28 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 01 2022

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy  
for Connie Patterson

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 14 2022, and on JUL 01 2022

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy  
for Connie Patterson

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>31274</u></p>
--